

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 251 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

DINABEN KANUBHAI MODI

Versus

CHHAY GEMS

Appearance:

MR MP SHAH for Petitioner

MR AJ SHASTRI for Respondent No. 2, 3, 4, 5, 6, 7

CORAM : MR.JUSTICE H.H.MEHTA

Date of decision: 30/08/2000

ORAL JUDGEMENT

When this appeal is taken up for hearing at the admission stage, both the parties requested that this matter be decided finally with some directions to the trial court and therefore, with the consent of both the parties, this appeal is decided finally.

2. Appeal is admitted.

3. Mr. A.J.Shastri submits that he appears for respondent no.1 which is a Firm of which partners are duly served and they are also represented by him. Both the parties have submitted jointly that while deciding this appeal finally, no reasons are required to be assigned in Judgment, but certain directions may be given to the trial court for expeditious hearing and disposal

of application Ex.5 in Regular Civil Suit No. 330 of 1995 pending before his file.

4. Having heard the learned advocates for both the parties and after going through Para 4 of the impugned order dt. 4/2/2000 passed below Ex.5 in Regular Civil Suit No. 330 of 1995, it appears that an opportunity has not been afforded to both the parties when that application was decided. Looking to the facts and circumstances of the case and on considering the arguments of both the parties, this appeal deserves to be allowed and impugned order dt. 4.2.2000 challenged in this appeal requires to be set aside and accordingly it is set aside.

5. The learned Judge of the trial court is directed to hear and decide the application Ex.5 filed in Regular Civil Suit No. 330 of 1995 afresh by affording full opportunity of being heard to both the parties as expeditiously as possible, preferably within two months from the date of receipt of writ of this order of this court.

In the meantime, ad-interim injunction granted on 30th October, 1995 shall continue to remain effective and operative till that application Ex.5 is finally heard and decided by the learned Judge of the trial court as per direction given by this court. The learned trial Judge is directed to dispose of application Ex.5 filed in Regular Civil Suit No. 330 of 1995 without being influenced by the order of this court, in any way.

5. With the above directions, this appeal is allowed accordingly. No order as to cost.

Date: 30/8/2000. (H.H.MEHTA,J.)

ccshah